

ORDINANCE NO. 3659

AN ORDINANCE VACATING AND ABANDONING IN-PLACE A PORTION OF A WATER LINE EASEMENT PREVIOUSLY CONVEYED TO THE CITY; DECLARING THAT SUCH EASEMENT IS NO LONGER NEEDED FOR USE BY THE PUBLIC; AUTHORIZING THE MAYOR TO EXECUTE A QUITCLAIM DEED RELEASING AND ASSIGNING THE EASEMENT TO THE OWNER OF THE FEE ESTATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Richland Hills, Texas (“the City”) is a home rule city acting under its power adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, on or about May 18, 2016, a water line easement was granted to the City, which such easement is filed of record as Instrument No. D216158176 of the Tarrant County Deed Records; and

WHEREAS, the current property owner, Birdville Independent School District (“BISD” or “Developer”) is proposing to make modifications to the Smithfield Middle School building, and is requesting that a portion of an existing water line be removed, and after careful study and consideration, the City Council has determined that the public would be better served and benefited by vacating and abandoning a portion of the existing easement (depicted and described in **Exhibit “A”** herein); and

WHEREAS, in order to remove any question as to the continued interest in the easement or the City’s intention to relinquish its rights in the easement, the City desires to execute a quitclaim deed releasing and assigning all title and control in said easement to the owners of the fee estate on which the easement is located.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1: The City Council hereby finds the recitals above to be true and correct, and such recitals are hereby incorporated into this Ordinance as if written herein.

SECTION 2: The City Council finds that the public would be better served and benefited by the vacation and abandonment of a portion of the water line easement conveyed to the City on or about May 18, 2016 filed of record as Instrument No. D216158176 of the Tarrant County Deed Records, and as

shown and described on **Exhibits “B”** attached hereto and incorporated herein.

- SECTION 3:** The purpose of vacating and abandoning the portion of the existing easement is to allow the Developer to build a structure across a portion of the easement which is no longer needed to provide fire service as the service has been provided elsewhere.
- SECTION 4:** The City Council finds that the existing easement that is to be abandoned is no longer needed for public use.
- SECTION 5:** The Mayor of the City of North Richland Hills, Texas, is hereby authorized and empowered to execute a quitclaim deed releasing all claims to title, ownership, or control of a portion of the above-described easement to the current owner of the fee estate on which the easement is located.
- SECTION 6:** The current owner of the fee estate shall agree to release the City from any and all liability for claims for damages or loss, unless such damage or loss is caused by the negligent acts or omissions or intentional misconduct of the City, its employees, officers, subcontractors, agents or representatives. Developer further agrees that, to the extent permitted by law, Developer will be liable for any and all claims for damages or loss of any kind, for any reason, for any and all activities, whether real or asserted, resulting on the property, arising out of or in connection with the abandoned easement, if such damage or loss is caused by the negligent acts or omissions or intentional misconduct of Developer, its employees, officers, subcontractors, agents or representatives, but only to the extent set forth in the agreement executed and attached hereto as **Exhibit “C.”** Release of this easement shall run with the land and be binding on all successors and assigns of the fee estate.
- SECTION 7:** Upon execution of the quitclaim deed and the release agreement, the City Secretary is authorized and instructed to file this ordinance along with the quitclaim deed in the deed records of Tarrant County, Texas.
- SECTION 8:** This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of North Richland Hills, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.
- SECTION 9:** All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal,

whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 10: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 11: This Ordinance shall be in full force and effect from and its passage.

AND IT SO ORDAINED.

PASSED AND APPROVED on this 27th day of July, 2020.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney